

STEVEN V. MISKOFF

IBLA 81-864

Decided September 16, 1981

Appeal from decision of Alaska State Office, Bureau of Land Management, declaring mining claims abandoned and void. F 60933 through F 60942.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Steven V. Miskoff, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Steven V. Miskoff appeals a decision, dated March 16, 1981, in which the Alaska State Office, Bureau of Land Management (BLM), declared the Claudie, Lower Eskimo Gulch, Upper Eskimo Gulch, White Man Gulch, Upper White Man Gulch, Dead Man's Gulch, No Man's Gulch, Dixie Girl, Blatz, and Bunker placer mining claims, F 60933 through

F 60942, abandoned and void because copies of the official record of the location notices were not filed with BLM on or before October 22, 1979, as required by 43 CFR 3833.1-2. The claims had been located before October 21, 1976.

The appeal relates to all the unpatented claims, except Claudie, F 60933. Appellant recites that the claims have been worked each year since they were first located; that the claims were properly recorded under the law as it existed at the time of the initial recordation; and that proof of labor notices have been submitted each year to the Nome Recording District. Appellant alleges that when the filing regulations were changed, BLM made no effort to inform him. He contends that due to the remoteness of the area in which he works, such an effort to inform him should have been made. When appellant learned of the changed recordation requirements, he asserts he immediately submitted the appropriate instruments to BLM, but they were not submitted prior to October 22, 1979. Appellant prays that the BLM decision may be reversed as he cannot now relocate the claims because the area has been selected under the Alaska Native Claims Settlement Act.

BLM received the location notices for the subject claims on November 14, 1979. The notices state that the claims were located between June 30, 1963, and March 10, 1972.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), requires the owners of unpatented lode or placer mining claims located on or before October 21, 1976, on public lands to file, on or before October 22, 1979, in the proper BLM office a copy of the official record of the notice or certificate of location of the claim filed under state law, and an affidavit of assessment work performed on or for the benefit of the claims. The statute further provides that failure to file timely the required instruments shall be conclusively deemed to constitute an abandonment of the unpatented mining claim. The statutory requirements are repeated in the regulations, 43 CFR 3833.1-2, 3833.2-1, and 3833.4.

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA is unfortunate, but it does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of applicable law and the regulations duly promulgated pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976).

As the required documents were not filed with BLM on or before October 22, 1979, the claims were properly deemed to be abandoned and void. Susan Mativo, 52 IBLA 134 (1981). This Board cannot waive failure to comply with statutory requirements, nor afford relief from the statutory consequences. Lynn Keith, 53 IBLA 92, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge.

